

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	JOHN W. DARRAH <i>[Signature]</i>	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 2264 (App. No. 08-2390)	6-11-08 DATE	6-11-08
CASE TITLE	U.S. ex rel. James G. Turner-El (#N-01161) vs. Donald Hulick, et al.		

DOCKET ENTRY TEXT:

The petitioner's motion for leave to appeal *in forma pauperis* [#20] is granted. The petitioner's motion for transmission of the record on appeal [#21] is denied as moot. The petitioner's motion for appointment of counsel on appeal [#22] is denied for lack of jurisdiction. The clerk is directed to send a copy of this order to the PLRA Attorney, U.S. Court of Appeals for the Seventh Circuit.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

James Turner-El, a state prisoner, has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petitioner challenges his 1982 convictions for armed robbery, attempted murder, and unlawful restraint on the ground that the imposition of an extended-term sentence was unconstitutional. More specifically, the petitioner contends that the "maximum extended term of sixty years" denied him due process, deprived him of equal protection of the law, amounted to "cruel and unusual" punishment, and has subjected him to serving illegal "double-time," with no credit on his federal sentence.

By Minute Order of April 29, 2008, the court dismissed the habeas petition on initial review for lack of jurisdiction as successive. The petitioner has filed a notice of appeal from the final judgment and seeks leave to proceed on his appeal *in forma pauperis*. Although the court is not inclined to issue a certificate of appealability, the petitioner (who has a negative account balance of over ten thousand dollars) appears to be unable to pay the appellate filing fee and can satisfy the criteria set forth in Fed. R. App. P. 24(a). Accordingly, the petitioner's motion for leave to appeal *in forma pauperis* is granted.

However, the petitioner's motion for appointment of counsel on appeal must be denied for lack of jurisdiction. This court has no authority to appoint counsel on appeal. The petitioner must file his request for court-appointed, *pro bono* counsel with the clerk of the court of appeals rather than in the district court.

Finally, the petitioner's motion for transmission of the records is denied as unnecessary. The Clerk of Court transmitted the "short record" to the appellate court on June 4, 2008. If the U.S. Court of Appeals for the Seventh Circuit requires additional documents from the district court, it will request them.

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